

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
WILLIAM STEINSMITH)

For Appellant: William Steinsmith,
in pro. per.

For Respondent: James T. Philbin
Supervising Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of William Steinsmith against a proposed assessment of additional personal income tax and penalty in the total amount of \$2,973.41 for the year 1979.

Appeal of William Steinsmith

The issue is whether appellant has shown any error in respondent's proposed assessment of tax and penalties.

Appellant failed to file a personal income tax return for 1979, and refused to comply with respondent's demand that he file a return. Therefore, respondent issued a proposed assessment against appellant based upon information concerning his income received from the Employment Development Department. In addition to the income tax assessed, respondent imposed 25 percent penalties for failure to file a return and failure to file a return after notice and demand, and a 5 percent negligence penalty. Subsequent to appellant's protest, respondent reaffirmed the proposed assessment, and this appeal followed.

Respondent's determinations of additional tax and penalties are presumptively correct, and the taxpayer has the burden of proving that they are incorrect. (Appeal of K.L. Durham, Cal. St. Bd. of Equal., March 4, 1980.) Appellant has not attempted to prove any error. Rather, he objects to the proposed assessment on the ground that the money he received in 1979 was not lawful currency since it was not redeemable in gold or silver. Appellant has presented the identical argument in two previous appeals before this board. (Appeals of William Steinsmith, Cal. St. Bd. of Equal., May 21, 1980, and May 19, 1981.) In both appeals, we found appellant's position to be without merit. We see no reason to alter our opinion. Therefore, the action of respondent shall be sustained.

Appeal of William Steinsmith

ORDER

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of William Steinsmith against a proposed assessment of additional personal income tax and penalty in the total amount of **\$2,973.41** for the year 1979, be and the same is hereby sustained.

Done at Sacramento, California, this 29th day
of June , 1982, by the State Board of Equalization,
with Board Members Mr. Bennett, Mr. Dronenburg and
Mr. Nevins present.

William I. Bennett, Chairman
Ernest J. Dronenburg, Jr., Member
Richard Nevins, Member
, Member
, Member